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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RUSSELL B. MORRISON, an individual,

Plaintiff,

v.

SAM'S WEST, INC., a foreign corporation dba  
SAM'S CLUB; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: 2:18-cv-00353-RFB-PAL

**STIPULATION AND [PROPOSED]  
ORDER TO TAKE CERTAIN  
DEPOSITIONS OUTSIDE THE CLOSE OF  
DISCOVERY**

**[THIRD REQUEST]**

Plaintiff RUSSELL B. MORRISON ("Plaintiff") and Defendant SAM'S WEST, INC. ("Defendant"), by and through their respective counsels of record, do hereby stipulate to conduct certain discovery outside the discovery period. Specifically, the parties stipulate that **Defendant shall take the depositions of Plaintiff's experts Dr. Jorg Rosler, M.D., Dr. Jason Garber, M.D., John Peterson, CSHM, David L. Suggs, as well as Plaintiff Russell B. Morrison, following the December 26, 2018 DCO.**

Pursuant to, LR IA 6-1 and LR 26-4 the parties hereby aver that this is the third such discovery extension requested in this matter. While the parties have previously stipulated to extend all discovery deadlines twice in this matter, this is the first request that certain depositions be allowed after the current DCO of December 26, 2018, due to witness availability.

**DISCOVERY COMPLETED TO DATE**

- The parties have conducted an FRCP 26(f) conference;
- Plaintiff and Defendant have served their respective FRCP 26(a) disclosures;

- Defendant has served interrogatories, requests for production, and requests for admissions to Plaintiff, and Plaintiff has served responses;
- Plaintiff has served interrogatories, requests for production, and requests for admissions to Defendant, and Defendant has served responses.
- The parties have served their expert disclosures and any supplements thereto.
- Plaintiff deposed Sam's Club employee, Robert Faranda, on September 14, 2018.
- The parties, as well as Plaintiff's experts, conducted a site inspection of the subject premises on October 15, 2018.
- Plaintiff will be taking the deposition of Sam's Club employee, Joyce Johnson, on December 12, 2018 at 10 a.m.;
- Plaintiff will be taking the deposition of Sam's West's FRCP 30(b)(6) Representative on December 18, 2018 at 10 a.m.

**DISCOVERY TO BE COMPLETED OUTSIDE THE DISCOVERY PERIOD**

Discovery to be completed includes:

- Deposition of Plaintiff on January 9, 2018 at 10:00 a.m.;
- Deposition of Dr. Jorg Rosler, M.D. on April 4, 2018 at 7:30 a.m.;
- Deposition of Dr. Jason Garber, M.D. on February 21, 2018 at 10:00 a.m.;
- Deposition of John Peterson, CSHM (Date and time TBD in January 2018);
- Deposition of David L. Suggs (Date and time TBD in January 2018).

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2 The parties aver that good cause exists for the request pursuant to LR IA 6-1 and LR 26-4.  
3 Defendant requested dates for the foregoing depositions in November 2018, prior to the December 26,  
4 2018 DCO, but due to the witnesses' busy schedules and the difficulty scheduling the depositions during  
5 the holiday season, said depositions could not be scheduled within the discovery period. As such, the  
6 parties have cordially agreed to the aforementioned date and times upon which the depositions shall be  
7 conducted.

8 DATED this 11<sup>th</sup> day of December, 2018.

DATED this 11<sup>th</sup> day of December, 2018.

9  
10 /s/ Andrew Barton, Esq.

/s/ Betsy C. Jefferis, Esq.

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15 *Russell B. Morrison*

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*Sam's West, Inc.*

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17 Having reviewed and considered the matter, the court will not approve an open ended  
18 stipulation that does not provide a deadline to take the expert depositions at issue. The  
19 parties must schedule the depositions on the earliest mutually convenient dates for the  
20 experts and counsel and resubmit a proposed stipulation with dates certain for the  
depositions, the deadline for dispositive motions, and the deadline for the joint pretrial order.  
Accordingly,

21 **IT IS ORDERED** that the parties' Stipulation (ECF No. 19) is **DENIED without prejudice.**

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25 Peggy A. Leen  
United States Magistrate Judge

26 Dated: December 21, 2018